

DOCUMENT RESUME

ED 153 433

EC 110 382

AUTHOR Sloat, Robert S.
TITLE Legal Aspects of Drug Abuse.
PUB DATE May 78
NOTE 30p.; Paper presented at the Annual International Convention, The Council for Exceptional Children (56th, Kansas City, Missouri, May 2-5, 1978. Session Th83)

EDRS PRICE MF-\$0.83 HC-\$2.06 Plus Postage.
DESCRIPTORS *Drug Abuse; Elementary Secondary Education; Historical Reviews; *Legal Problems; *Legislation; Values

ABSTRACT

Discussed from a teacher's perspective are the legal and cultural ramifications of drug abuse. The importance of teachers' examining their own values concerning drug use is emphasized. Also reviewed are the history of drug use and of narcotics legislation. Recommendations concerning legislative reform are discussed. (CL)

* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *

ED153433

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

LEGAL ASPECTS OF DRUG (AB)USE

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY.

Robert S. Sloat, Ph.D.
Presented at 56th Annual
CEC Convention, Kansas City
May 4, 1978

In discussing the legal aspects of drug abuse, we are not really dealing with a simple, clear cut phenomena. Yes, the sale and possession of narcotics and other controlled drugs (without a prescription) is illegal and is a crime! However, in this country we have fifty-two different sets of laws. The federal government, the District of Columbia, and each of the 50 states have their own drug laws, and to further complicate the problem, more and more Americans are breaking the law and using drugs. (Brenner 1970)

Classifications of drug violations differ from state to state, as do lengths of sentences for possession, transporting, selling, using, etc. The laws affecting treatment and parole practices also differ. Some states and many municipalities have specific ordinances regarding marijuana, narcotics, and other specific drugs. (Cornacchia, 1973)

In dealing with children suspected of drug use, a teacher, or any individual in the school, should know the symptoms of drug abuse, as well as local, state, and federal laws. Furthermore, the teacher should be familiar with the current classification of what the child is using. This is especially true in those states which impose harsh penalties on users because this punishment may have long lasting effects on a child's future. (Haslam, 1975) (Sengstock, 1975)

Robert Sloat
Professor of Special Education
School of Special Ed & Rehab
University of Northern Colorado
Greeley CO 80639

EC110382

Another problem is that of your own legal rights. Many believe that a teacher has the right of privileged information in terms of gaining the trust of a child. However, only a handful of states grant the legal right of privileged communications (especially in drug abuse matters) to school officials and counselors. (Education Digest, 1972) So what do you do when a child seeks a confidential relationship with you? Perhaps this question is even more relevant for us because as teachers of exceptional children, it is one of our prime responsibilities to develop a positive relationship with our charges in order to help facilitate their learning. And there does exist the distinct possibility that in their desire to win friends, and in their desire for peer acceptance, exceptional children may easily be led into trying drugs. Please remember also that there are no exceptions to the law. The label of handicapped, or special, or exceptional does not preclude a child from being prosecuted as long as that child is able to differentiate between right and wrong.

Perhaps the most important consideration in looking at drug use is your own value system. There are many people who believe that drugs, per se, are not the issue, but rather the issue is the value system of those in power or the value system of society at any given time. What is legal today may have been illegal yesterday or vice versa. For example, prison sentences were levied for smoking in colonial times both on this continent and in Western Europe. Your value system will determine how you handle a child that you observe smoking a joint. You must ask yourselves if you

believe that alcohol use, which is the most popular intoxicant among secondary school students (Haslam, 1975), is more harmful than marijuana. In considering substance abuse, how do you feel about alcohol, caffeine, nicotine, and over the counter drugs, even though they are legal. It is important to note that abuse of these substances is significantly higher than abuse of all of the federally listed illegal drugs, including marijuana and cocaine. In fact, the abuse of medically prescribed drugs is also significantly higher than all of the illegal drugs. Your value system toward such victimless crimes as gambling and prostitution may in part be related to your attitudes and beliefs about the use of marijuana, which is also considered by some to be a victimless crime.

One must therefore recognize that not only is a drug use a complex behavior, but that there are also many determinants at the cultural and individual level as to what is use or abuse and as to where in the hierarchy of the criminal system drug use should be placed. The general question you should ask yourself is where do you stand or which of the following statements do you agree with or identify with:

1. All drug use, unless prescribed by a physician is illegal and must be dealt with in terms of what the law specifies.
2. A sharp and distinct differentiation should be made between marijuana and cocaine and other drugs (e.g. heroin) and non-drugs such as transmission fluid, glue, etc.
3. If the decriminalization of marijuana in such states as Oregon, Colorado, and Alaska has resulted in no increase

in crime or hard drug use, why not develop a national decriminalization policy?

4. The use of stimulants (uppers) and depressants (downers) for children diagnosed as having learning and/or behavior problems should be more carefully monitored since the long term physiological and psychological effects of these legal drugs are potentially as dangerous and devastating as many of the illegal drugs.
5. Drug taking generally has negative effects on the person only when it becomes the dominant mode of problem solving, and at this point the teacher should intervene.
6. Drug abuse refers to the way a drug is used, and moderate drug use is not abuse even if the drug used is illegal.
7. Both the mass media and drug education programs in this country have probably contributed to an increase in the amount of drug experimentation. Therefore, it is our responsibility as teachers to make education relevant and to tell the truth about drugs.
8. A number of currently illegal drugs should be made legal or at least decriminalized, and the harsh and sometimes unrealistic penalties for possession of these drugs should be decreased, while at the same time the penalties for sale should be made harsher.

9. The answer is not more penalties or more laws, but more information.
10. If more drugs were decriminalized or at least controlled by administration through federal clinics, the crime rate in this country would be reduced by 40%.
11. "The law should not prohibit [the use of drugs] except to the extent necessary to protect the physical and mental health of the users."

This last statement was a quote from Robert Cover in the Columbia Law Review (Ray 1972), and I could go on. Shortly, I will discuss specific recommendations made by prestigious groups concerning current philosophy about drugs, including marijuana: But let's get back to the legal aspects of drug use.

What are the objectives of our present criminal penalty system? The most obvious one is to prevent the importation and sale of those drugs which have little or no medical value and which will alter personality. The second is to suppress experimentation, especially by young people. The third reason for penalties is to lower the probability of repeated use. The last is to provide an entry mechanism into mandatory treatment programs, "that is, a person apprehended for the use of drugs who is brought before a court can be... offered the option of entering such a program" instead of going to jail. (Stachnik, 1972)

With all of the concern about the use of drugs today, one might believe that it is a new social problem and that until a few years ago, there were no laws governing drug use. This is not the case.

The introduction of the hypodermic syringe in 1856 led to the first major documented widespread use of morphine during and following the Civil War. There were so many soldiers addicted to morphine that it was termed "the soldier's disease" in the years after the war. However, even prior to the 1860's, opium, and its derivatives, were as "freeley accessible as aspirin is today". (Brecher 1972) People could buy numerous patent medicines which contained opium or morphine. These medicines were advertised as "pain killers", "cough mixtures", "women's friends", "consumption cures" and so on. Opium poppies were legally grown in such states as Vermont, Connecticut, Pennsylvania, Arizona, and New Hampshire in the 1700's and 1800's. During the War of 1812, a pound of opium, which yields about four ounces of heroin, was selling, because of demand, at the high price of \$10 to \$12. At today's prices, the same amount of the best street heroin, which is cut nine to one, would bring \$1,816,628. Opium was also produced by Virginia, South Carolina, Georgia, and Tennessee during the Civil War, and although some states and cities outlawed it earlier, Congress did not ban cultivation until 1942.

The smoking of opium was not too comon until the late 1800's. However, the import of many Chinese workers during the latter part of the 19th century significantly increased the practice of opium smoking to the point where, by the early 1880's, San Francisco, New York City, and New York State had ordinances forbidding the practice, even though it was legal to grow opium. The federal government did, in the 1840's, impose a tax on imported opium.

Cocaine, another one of today's illegal drugs, was introduced in a syrup form in Atlanta, Georgia under the trade name of Coca-Cola in 1886. The most famous European to use cocaine, or what he called a "magical drug", was a Viennese neurologist by the name of Sigmund Freud. In a paper which he wrote in 1884, Freud advocated the use of cocaine as a stimulant such as caffeine. When cocaine was removed as an ingredient in soft drinks and patent medicines, the price rose dramatically to where today it is called the "drug users caviar". (Grinspoon and Bakalar 1977) For your information, in addition to Freud, a number of prominent individuals either used or advocated the use of cocaine. This long list included Thomas Edison, Sir Arthur Conan Doyle, Pope Leo XIII, the Prince of Wales, Robert Louis Stevenson and Ulyses S. Grant.

Phenobarbital was used extensively, after its introduction in 1912. Although amphetamines were first synthesized in 1887, they were not used to any degree until 1927, when their effectiveness was discovered. LSD-25 was not synthesized until 1943 and was initially used in psychotherapy.

The most common of all of the American illegal drugs is marijuana, and interestingly enough, it is also the oldest. The earliest documented use of marijuana was in China in 2737 B.C. References pertain to the next 4,000 years (to its use) are found in the literature of India, Assyria, Greece, Egypt, South Africa and on and on. Seeds and leaves dating back to 500 B.C. were unearthed in Germany. Marijuana was introduced to the New World by the Spaniards in 1545 and was cultivated for its fiber, in Virginia in 1611.

It was used medically for the first time in 1850, and for recreational purposes in the 1840's. Although it was readily available throughout the 19th and early 20th century, it really became a national concern with the onset of prohibition. Marijuana became such a popular substitute that states, in the late 1920's, began imposing fines and imprisonment for possession and sale. By 1937 the federal government, the District of Columbia and 46 states had laws against it. However, despite all current and past legislation, marijuana today occupies fourth place, behind caffeine, nicotine, and alcohol, in its worldwide popularity as a mind affecting drug. (Brecher, 1972)

Today, the federal authorities concentrate on distribution rather than possession, while at the state level, less than 7% of the arrests are for selling. In looking at the 93% of arrests for possession at the state level, we find that the typical arrestee was a white male, in school or employed in a blue collar job, and without a prior record. Some interesting statistics include (First Report of the National Commission on Marijuana and Drug Abuse, 1972):

- 69% of all marijuana arrests arose from accidental or situations where there had been no investigation
- 16% of all arrests resulted from phoned tips or similar leads
- 58% were under 21
- 30% were 21 to 26
- 85% male and 15% female
- 77% white, 21% black, and 2% were Spanish speaking
- 27% students
- 28% blue collar
- 15% white collar
- 67% possessed less than one ounce
- 29% were arrested alone
- 24% were arrested with one other person
- 48% of all adult arrests were terminated in the defendant's favor
- 70% of all juvenile arrests were terminated in the youth's favor

Zinberg (1976) pointed out that for every study dealing with the negative effects of the use of marijuana, there were likewise as many studies which indicated minimal or no harm from its use. These studies have dealt with such topics as:

1. Amotivational Syndrome
2. Chromosome Damage and Birth Defects
3. Brain Damage
4. Psychosis
5. Stepping Stone to Heroin
6. Immune Response
7. Sex Impairment

As a result of his review of the literature, Zinberg, as a physician and professor of psychiatry at Harvard Medical School, concluded "that marijuana is a remarkably innocuous substance." (p 102) We'll discuss more about marijuana in a few minutes.

However, getting back to the history of drug use, we can conclude that it is not a new problem and that the social ramifications are hundreds of years old. Although we had a variety of state laws dating back to the late 1800's, the most significant historical indice of America's national concern for drug regulation was the enactment of the Pure Food and Drug Act of 1906. This was the first attempt by the federal government to place some control over those drugs which today are considered to be the most common of the illegal and abused drugs.

Rather than discuss each of the federal laws since 1906, I have prepared a little handout which outlines the major legislation designed to place control over and regulate those substances which are currently being used or abused. This outline summarizes the following legislation:

1. Pure Food and Drug Act - 1906
2. Opium Exclusion Act - 1909
3. Harrison Narcotic Act - 1914
4. Narcotic Drug Import and Export Act - 1922
5. Marijuana Tax Act - 1937
6. Federal Food, Drug, and Cosmetic Act - 1938
7. Opium Poppy Control Act - 1942
8. Boggs Amendment - 1951
9. Narcotics Control Act - 1956
10. Narcotics Manufacturing Act - 1960
11. Drug Abuse Control Amendments - 1965
12. Narcotic Addict Rehabilitation Act - 1966
13. Comprehensive Drug Abuse Prevention and Control Act - 1970
14. Controlled Substances Act - 1971

The major purpose of all of these laws has been to decrease the sale and use of narcotic drugs: yet it appears that they have met with little success. With this obvious conclusion in mind, one may ask the general question, "What have we done wrong?" Is it that our laws are not commensurate with our social values? Or are we more concerned with the law rather than the youth of our nation?

There are many problems which you, as educators, with influence in our society, should be aware of. A major and serious problem, identified in an Office of Child Development (OCD) publication, is that many state laws do not differentiate between different kinds of drugs, especially in terms of penalties. This publication referred to present laws as "archaic, inconsistent, and stupid." In addition to our arrest laws not being discriminatory, our punishment for drug use does not distinguish between drug users and other offenders. The Florida State Plan for Drug Abuse Prevention (June, 1975) pointed out that "the Division of Youth Services (responsible for incarcerated persons age 17 and under) has no facilities or separate programs specifically targeted to the drug involved client." (p 16)

The most significant of all problems is that a large majority of America's fifty-two sets of laws are oriented toward punishment and few are geared to treatment. The odds that a youth under 17, arrested and incarcerated for possession, will receive treatment or counseling or any other alternative other than just imprisonment are heavily weighted against him.

The state of the phenomena of drug abuse can best be summarized by the major problem indicators identified by the State of Florida (June 1975). These are:

1. "Techniques for providing valid data on the extent and nature of the problem in various communities and geographical regions.... are inadequate. Emergency room data, uniform crime reports, drug treatment program data, surveys of incidence

and prevalence all serve as indicators of the drug abuse problem but each has serious limitations.

2. Clear recommendations for continuation, modification, or termination of specific drug abuse prevention programs cannot be made based on the present state of evaluative research in the human service delivery system.
3. Coordination with.... state and local agencies interested in drug abuse prevention is extremely difficult." (p 1)

If we believe that the present laws and approaches to the drug problem are archaic and counter productive, then we must ask the question, what are the alternatives and what can be done?

Since the enactment of the Controlled Substances Act of 1971, there has been a plethora of books, articles, and reports dealing with the legal aspects of drug use. A significant percentage of these writings have dealt with the need to reform our drug laws and, in particular, the marijuana laws. The National Commission on Marihuana and Drug Abuse (1972) pointed out that:

"The law is at best a highly imperfect reflection of drug policy. The laws proscribing sale of tobacco to minors are largely ignored. As to marihuana, there are areas throughout this nation where possession laws are not enforced at all. In other sections, such proscriptions are strictly enforced, with no apparent decrease in marihuana use." (p 137)

"As a guiding doctrine for parents and children, the law is certainly confusing when it imposes widely varying punishments in different states, even in different courts in the same state, all for use of the same substance, marihuana. That marihuana use can be treated as a petty offense in one state and a felony in another is illogical and confusing to even the most sincere parents." (p 137)

The Commission listed specific recommendations for changing federal and state laws. These basically said that "possession of marihuana for personal use would no longer be an offense", (p 152) however sale and distribution would still remain a felony. Other recommendations of the Commission dealt with education, therapeutic use, treatment, training, and medical considerations.

The removal of criminal penalties for private use and possession of marijuana has been endorsed or recommended by many highly respected individuals and organizations such as the:

- American Bar Association
- Consumers Union
- National Council of Churches
- Governing Board of the American Medical Association
- National Educational Association
- American Public Health Association
- John Finlater, Former Deputy Director of the Federal Bureau of Narcotics and Dangerous Drugs
- William F. Buckley, Jr., Columnist

However, we are not just talking about marijuana when we discuss drug abuse. What about other drugs such as heroin? In an article that appeared in the American Psychologist entitled, "The case against criminal penalties for

illicit drug use," Dr. Thomas Stachnik, (1972), Director of Psychiatry and Community Medicine at Michigan State University, assessed "the efficacy of our present system of criminal sanctions for illicit drug use." He listed seventeen undesirable side effects of criminal penalties, proposed an alternate strategy, and outlined the probable consequences. He pointed out "that approximately 50-60% of urban crime is related to the support of the heroin habit" and he supported the concept of clinics for all heroin users.

Dr. Stachnick is not alone in calling for total reform. Others (Grinspoon and Bakalar, 1977) have argued that drugs like cocaine and marijuana should be treated just like alcohol and that our current laws restricting cocaine do not serve the best interests of those who can use it "most responsibly, but only those who can best circumvent the law." (p 77) They point out that "countless other commodities potentially far more harmful and dangerous [than marijuana and cocaine] are sold freely." (p 77) In 1972 the Consumers Union completed a five-year 600-page plus study entitled, "licit and illicit drugs" and recommended the immediate repeal of all federal and state laws against marijuana, the establishment of experimental heroin maintenance programs and a nationwide ban on cigarette and alcohol advertising. This report (Brecher, 1972) pointed out that prohibition does not work and laws cannot work miracles. A recommendation of revision of laws and enforcement policies to concentrate on achievable goals was emphasized.

Six immediate steps were recommended to correct present mistakes in drug laws, policies and attitudes. These were (pp 522-27)

1. Stop emphasizing measures designed to keep drugs away from people.
2. Stop publicizing the horrors of the "drug menace".
3. Stop increasing the damage done by drugs.
4. Stop misclassifying drugs.
5. Stop viewing the drug problem as primarily a national problem to be solved on a national scale.
6. Stop pursuing the goal of stamping out illicit drug use.

The Union's report was based upon a synthesis of all available reports and data and their specific ^{recommendations} commendations were so varied that it is essential that all teachers review the entire report. An example of some of their recommendations would be the development of an orderly system of legal distribution which would abolish the black market traffic in drugs by eliminating the black market demand. They believed that by insuring that "no narcotics addict need get his drug from the black market", crime would be reduced, deaths from contaminated drugs and syringes, death from overdoses, etc. would be significantly reduced. This orderly system could assist us in limiting the exposure of non-users to users and allow us to develop a truthful and comprehensive educational program.

The Union also recommended the immediate repeal of all federal and state laws governing growing, processing, transporting, selling, possessing and using of marijuana. These laws would be replaced by appropriate regulations, and tax proceeds from marijuana sale would "be devoted primarily to drug research, drug education, and other measures designed to minimize the damage done by alcohol, nicotine, marijuana, heroin and other drugs." (p 138) It was also recommended that all individuals now serving prison terms for possession or the sharing of marijuana be set free.

Furthermore, additional recommendations dealing with the hazards of nicotine and alcohol were discussed.

Realizing that there is no clear-cut answer to the questions of "What can be done?" and "What are our alternatives?", and understanding

that today's laws may very well be counter productive, I can only conclude with a quote from Dr. Stachnik (1972 p 642):

"In determining an appropriate course of action, we must remind ourselves of the following: Whatever else young drug abusers may be - pot heads, acid heads, speed freaks, junkies - there is one overriding consideration, one common denominator, that must permeate our thinking and our action... they are our children."

BIBLIOGRAPHY

- Brecher, E. and Editors of Consumer Reports. Licit and illicit drugs. Mt. Vernon, New York: Consumers Union 1972
- Brenner, J., Coles, R. and Meagher, D. Drugs and youth: medical, psychiatric and legal facts. New York: Liveright, 1970
- Cornacchia, H., Bentel, D. & Smith, D. Drugs in the classroom: a conceptual model for school programs. St. Louis: Mosby, 1973
- Guinspoon, L. and Bakalar, J. Cocaine - a social history and A Kick from cocaine. Psychology Today. 10(10) March 1977
- Haslam, R. and Valletutti, P. Medical problems in the classroom. Baltimore: University Park Press, 1975
- Herzog, E., Sudia, C., and Harwood, J. Youth reporters discuss problem drugs. (Youth Reports #2) Washington, D.C.: Office of Child Development, Children's Bureau, 1970
- McFadden, R. Consumer Union urges federal and state drug law reform. New York Times, November 29, 1972 (pp 1 & 26)
- Ray, O. Drugs, society and human behavior. St. Louis: Mosby, 1972
- Sergstock, W., Vergason, G., and Sullivan, M. Considerations and issues in a drug abuse program for the mentally retarded. Education and Training of the Mentally Retarded. 10(3), October, 1975
- Stachnik, T. The case against criminal penalties for illicit drug use. American Psychologist. 27(7), July, 1972
- UNKNOWN, The Florida state plan for drug abuse prevention. Bureau of Drug Abuse Prevention, Research and Evaluation Section. Tallahassee: State of Florida, June 30, 1975
- UNKNOWN, Pro-drug dialectic communication on drug abuse and the marihuana red herring. Reprinted from Communication and Drug Abuse, Proceedings of the Second, Rutgers Symposium on Drug Abuse. J. W. Henborn, J. Smith and S. Wittenborn (Eds.), U.S. Department of Justice (undated)
- UNKNOWN, Drugs of abuse. Drug Enforcement Administration, Department of Justice, Washington, D.C. (undated)
- UNKNOWN, Drug Enforcement. Drug Enforcement Administration, Department of Justice, Washington, D.C.: Summer 1975
- UNKNOWN, Dealing with drug users in the schools. Education Digest. Jan. 1972
- UNKNOWN, Marihuana: a signal of misunderstanding. (First Report of the National Commission on Marihuana and Drug Abuse. Washington, D.C.: U.S. Government Printing Office, March, 1972
- Zinberg, N., The war over marijuana. Psychology Today. 10(7) December 1976

Narcotic Rules, Regulations and Laws: Legal Perspective

Prepared by: Robert Sloat, Ph.D.
For: CEC's 56th Annual International
Convention, Kansas City, Mo.
May 4, 1978

1. Pure Food and Drug Act of 1906

The major purpose of this law was to prohibit interstate commerce of adulterated or misbranded foods and drugs. The act was also directed to the control of patent medicines, and in the section dealing with misbranding, references were made to alcohol, morphine, opium, cocaine, heroin and Cannabis indica (marijuana).

2. Opium Exclusion Act of 1909

This law prohibited the importation of opium or its derivatives except for medical purposes. Regulation was placed in the hands of the Secretary of Treasury.

3. Harrison Narcotic Act of 1914

This act was the first major federal legislation pertaining to control of narcotics in the U.S. Until May of 1971, it was the federal government's basic control law. It required an annual registration (with the Treasury Department) of dealers and dispensers of narcotics. Physicians, dentists and veterinary surgeons were named as lawful distributors, but only if they registered. This concept of their legal right was upheld by Supreme Court decisions in 1913 and 1922.

4. Narcotic Drug Import and Export Act (Jones Miller Act) of 1922

This law imposed stiff penalties (10 years and minimum of \$5,000) for dealing with illegally imported narcotics.

Note: Between 1922 and 1937, a number of laws were passed prohibiting the import of opium for the purposes of manufacturing of heroin, and by 1930, almost one-third of the federal prison population were individuals sentenced for narcotic drug law offenses. The problem was so wide spread that in 1929 Congress established two narcotic treatment farms (Fort Worth, Texas and Lexington, Kentucky) for individuals convicted of breaking federal law. The persons who were sent to these farms were found guilty of using opium and its derivatives, Indian hemp (marijuana) and peyote (of which mescaline is the active agent). In order to bolster the Treasury Department's efforts, Congress in 1930 established a Bureau of Narcotics within the Department.

5. Marijuana Tax Act of 1937

This law required that all persons who imported, manufactured, produced, compounded, sold, dealt in, dispensed, prescribed, administered or gave away marijuana had to register and pay a tax. This comprehensive law held until 1969 when the Supreme Court declared it unenforceable.

6. Federal Food, Drug, and Cosmetic Act of 1938

This act required that the statement "Warning - May be Habit Forming" be attached to any drug that contained any quantity of narcotic. It also required that prescriptions be necessary for any drug, with intended use by man, which may be habit forming. This law was amended and significantly strengthened in 1962 and again in 1965.

7. Opium Poppy Control Act of 1942

This law required a license in order to cultivate (grow) the opium poppy in the United States. (To date no license has ever been issued.)

8. Boggs Amendment of 1951

This legislation increased the penalties for persons who violated the federal narcotic and marijuana laws. It also differentiated between first, second and subsequent offenses as follows:

First offense: not less than 2 nor more than 5 years

Second offense: 5 to 10 years with probation and suspension of sentence excluded

Subsequent offenses: 10 to 20 years with probation and suspension of sentence excluded

9. Narcotics Control Act of 1956

This act was the direct consequence of Congressional investigations in 1955, and as a result the 1951 penalties were increased. A maximum \$20,000 fine was added, and the death penalty was provided for anyone selling heroin to anyone under 18. Penalties now ranged from 2 to 40 years with parole being available only after two-thirds of the sentence was served.

10. Narcotics Manufacturing Act of 1960

This act licensed all medical narcotic drug manufacturers. It set specific manufacturing quotas for both natural and synthetic drugs and made it illegal to manufacture any narcotic drug without a license.

11. Drug Abuse Control Amendments of 1965

Based upon the 25 recommendations of President Kennedy's Advisory Commission of Narcotic and Drug Abuse, this act increased federal control over the manufacture, distribution, delivery and possession of three groups of dangerous drugs. These groups were depressants (barbiturates), stimulants (amphetamines) and hallucinogens. It also listed specific criteria to be used in determining if a drug was an hallucinogen, depressant or stimulant. Time guidelines for refill of prescriptions as well as even stronger criminal penalties were stated.

12. Narcotic Addict Rehabilitation Act of 1966

This legislation provided civil commitment for treatment in lieu of prosecution.

13. Comprehensive Drug Abuse Prevention and Control Act of 1970
(PL 91-513)

This law consolidated and updated all previous federal legislation in an attempt to control the legitimate drug industry and to curtail importation and distribution of illicit drugs throughout the United States. The law dealt with many areas including prevention and treatment of drug abuse and the development of educational programs. The law also authorized monies to provide for 300 new federal agents to assist in enforcement.

For the first time the federal government recognized the special status of marijuana and marijuana users by authorizing (Part F Section 601) a "Commission on Marijuana and Drug Abuse". This commission, which consisted primarily of physicians, senators and representatives, presented its report in March of 1972. Its recommendations fell into three categories: (1) legal and law enforcement, (2) medical, and (3) other. In general, the commission demythologized, desymbolized, and suggested that we deemphasize marijuana as a problem.

14. Controlled Substances Act of 1971

This is the law under which we are now functioning. The purpose of this act was to minimize the quantity of abused drugs available to those who were prone to abuse. Also under this law, the control of narcotics and dangerous drugs was transferred to the jurisdiction of the Department of Justice, Bureau of Narcotics and Dangerous Drugs. Many drugs which were not previously restricted were placed on the controlled list and stricter requirements were placed on others. Five (5) schedules of controlled drugs were defined and penalties for trafficking in these drugs were listed. These schedules are as follows:

Schedule I

Drugs which have no currently accepted medical use in the United States or which have a high potential for abuse including:

heroin	peyote	MDA
*marijuana	mescaline	hashish
LSD	morphine (some types)	

*May have already been moved to Schedule II

Schedule II

Drugs which have a high potential for abuse or may lead to severe psychological or physical dependence. These drugs have accepted medical use with severe limitations and include:

amphetamines, methamphetamines, morphine, cocaine, etc. with such brand names as Demerol, Dilaudid, Seconal, Quaalude, Dexedrine and Ritalin.

Schedule III

Drugs which have a potential for abuse but less than Schedule I or II, and those with low to moderate physical dependence or high psychological dependence. Included here would be PCP (angel dust), paregoric, barbiturates (except phenobarbital), some forms of codeine, some amphetamines, and other stimulants.

Schedule IV

Here are drugs with less potential for abuse (although many disagree since Valium, a much abused drug, is listed here), and drugs which may lead to limited dependence. Included here are some barbiturates, many depressants such as Placydil and Dalmone, and such tranquilizers as Equanil, Librium, Miltown, Serax, Tranxene, and Valium. Some stimulants are also found on this list.

Schedule V

This schedule includes those drugs with low potential for abuse and limited dependence. Many formerly unclassified exempt narcotics have been listed here and amount is probably the prime factor for placing a drug in this schedule.

There are eight factors which the DEA considers in terms of placing a drug within a given schedule. These are:

- "1. Its actual or relative potential for abuse;
2. Scientific evidence on its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the drug or other substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or psychological dependence liability;
8. Whether the substance is an immediate precursor of a substance already controlled." (Drugs of Abuse, p 28)

In addition the act developed nine (9) control mechanisms which are imposed on the manufacturing, obtaining, and selling of substances listed in the five schedules. These are:

1. Registration of handlers
2. Record keeping requirements
3. Quotas on manufacturing
4. Restrictions on distribution
5. Restriction on dispensing
6. Limitations on imports and exports
7. Conditions for storage of drugs
8. Reports on transactions (to the government)
9. Criminal penalties for illicit trafficking

Examples of the maximum criminal penalties are as follows:

	<u>Manufacture or Distribution</u>	<u>Possession</u>
Schedule I	<u>First offense</u> 15 years and \$25,000 <u>Second and more offenses</u> 30 years and \$50,000	<u>First offense</u> 1 year and \$5,000 <u>Second offense</u> 2 years and \$10,000
Schedule II	<u>First offense</u> 15 years and \$25,000	<u>First offense</u> may be given probation. The penalties for possession are the same for all schedules. ↓
Schedule III	<u>First offense</u> 5 years and \$15,000 <u>Second offense</u> 10 years and \$30,000	
Schedule IV	<u>First offense</u> 3 years and \$10,000 <u>Second offense</u> 6 years and \$20,000	
Schedule V	<u>First offense</u> 1 year and \$5,000 <u>Second offense</u> 2 years and \$10,000	

There are many other components of this law including sections which specifically mention the "continuing criminal enterprise" and "dangerous special drug offenders". However, only time will tell as to whether this law will assist agents in curtailing the illicit drug traffic or whether new laws are needed.

References

1. Cornacchia, H., Bentel, D., and Smith, D. Drugs in the classroom: a conceptual model for school programs. St. Louis: Mosby, 1973. (pp 112-118)
2. Ray, O. Drugs, society and human behavior. St. Louis: Mosby, 1972 (pp 17-34)
3. Unknown Drugs of abuse. Drug Enforcement Administration, Department of Justice, Washington, D.C.: (undated) (pp 16-17, 28-32)
4. Unknown Marijuana: a signal of misunderstanding. First Report of the National Commission on Marijuana and Drug Abuse, Washington, D.C.: U.S. Government Printing Office, March 1972. (p 167)

Narcotic Rules, Regulations and Laws: Legal Perspective

Prepared by: Robert Sloat, Ph.D.
For: CEC's 56th Annual International
Convention, Kansas City, Mo.
May 4, 1978

1. Pure Food and Drug Act of 1906

The major purpose of this law was to prohibit interstate commerce of adulterated or misbranded foods and drugs. The act was also directed to the control of patent medicines, and in the section dealing with misbranding, references were made to alcohol, morphine, opium, cocaine, heroin and Cannabis indica (marijuana).

2. Opium Exclusion Act of 1909

This law prohibited the importation of opium or its derivatives except for medical purposes. Regulation was placed in the hands of the Secretary of Treasury.

3. Harrison Narcotic Act of 1914

This act was the first major federal legislation pertaining to control of narcotics in the U.S. Until May of 1971, it was the federal government's basic control law. It required an annual registration (with the Treasury Department) of dealers and dispensers of narcotics. Physicians, dentists and veterinary surgeons were named as lawful distributors, but only if they registered. This concept of their legal right was upheld by Supreme Court decisions in 1919 and 1922.

4. Narcotic Drug Import and Export Act (Jones Miller Act) of 1922

This law imposed stiff penalties (10 years and minimum of \$5,000) for dealing with illegally imported narcotics.

Note: Between 1922 and 1937, a number of laws were passed prohibiting the import of opium for the purposes of manufacturing of heroin, and by 1930, almost one-third of the federal prison population were individuals sentenced for narcotic drug law offenses. The problem was so wide spread that in 1929 Congress established two narcotic treatment farms (Fort Worth, Texas and Lexington, Kentucky) for individuals convicted of breaking federal law. The persons who were sent to these farms were found guilty of using opium and its derivatives, Indian hemp (marijuana) and peyote (of which mescaline is the active agent). In order to bolster the Treasury Department's efforts, Congress in 1930 established a Bureau of Narcotics within the Department.

5. Marijuana Tax Act of 1937

This law required that all persons who imported, manufactured, produced, compounded, sold, dealt in, dispensed, prescribed, administered or gave away marijuana had to register and pay a tax. This comprehensive law held until 1969 when the Supreme Court declared it unenforceable.

6. Federal Food, Drug, and Cosmetic Act of 1938

This act required that the statement "Warning - May be Habit Forming" be attached to any drug that contained any quantity of narcotic. It also required that prescriptions be necessary for any drug, with intended use by man, which may be habit forming. This law was amended and significantly strengthened in 1962 and again in 1965.

7. Opium Poppy Control Act of 1942

This law required a license in order to cultivate (grow) the opium poppy in the United States. (To date no license has ever been issued.)

8. Boggs Amendment of 1951

This legislation increased the penalties for persons who violated the federal narcotic and marijuana laws. It also differentiated between first, second and subsequent offenses as follows:

First offense:	not less than 2 nor more than 5 years
Second offense:	5 to 10 years with probation and suspension of sentence excluded
Subsequent offenses:	10 to 20 years with probation and suspension of sentence excluded

9. Narcotics Control Act of 1956

This act was the direct consequence of Congressional investigations in 1955, and as a result the 1951 penalties were increased. A maximum \$20,000 fine was added, and the death penalty was provided for anyone selling heroin to anyone under 18. Penalties now ranged from 2 to 40 years with parole being available only after two-thirds of the sentence was served.

10. Narcotics Manufacturing Act of 1960

This act licensed all medical narcotic drug manufacturers. It set specific manufacturing quotas for both natural and synthetic drugs and made it illegal to manufacture any narcotic drug without a license.

11. Drug Abuse Control Amendments of 1965

Based upon the 25 recommendations of President Kennedy's Advisory Commission of Narcotic and Drug Abuse, this act increased federal control over the manufacture, distribution, delivery and possession of three groups of dangerous drugs. These groups were depressants (barbiturates), stimulants (amphetamines) and hallucinogens. It also listed specific criteria to be used in determining if a drug was an hallucinogen, depressant or stimulant. Time guidelines for refill of prescriptions as well as even stronger criminal penalties were stated.

12. Narcotic Addict Rehabilitation Act of 1966

This legislation provided civil commitment for treatment in lieu of prosecution.

13. Comprehensive Drug Abuse Prevention and Control Act of 1970
(PL 91-513)

This law consolidated and updated all previous federal legislation in an attempt to control the legitimate drug industry and to curtail importation and distribution of illicit drugs throughout the United States. The law dealt with many areas including prevention and treatment of drug abuse and the development of educational programs. The law also authorized monies to provide for 300 new federal agents to assist in enforcement.

For the first time the federal government recognized the special status of marijuana and marijuana users by authorizing (Part F Section 601) a "Commission on Marijuana and Drug Abuse". This commission, which consisted primarily of physicians, senators and representatives, presented its report in March of 1972. Its recommendations fell into three categories: (1) legal and law enforcement, (2) medical, and (3) other. In general, the commission demythologized, desymbolized, and suggested that we deemphasize marijuana as a problem.

14. Controlled Substances Act of 1971

This is the law under which we are now functioning. The purpose of this act was to minimize the quantity of abused drugs available to those who were prone to abuse. Also under this law, the control of narcotics and dangerous drugs was transferred to the jurisdiction of the Department of Justice, Bureau of Narcotics and Dangerous Drugs. Many drugs which were not previously restricted were placed on the controlled list and stricter requirements were placed on others. Five (5) schedules of controlled drugs were defined and penalties for trafficking in these drugs were listed. These schedules are as follows:

Schedule I

Drugs which have no currently accepted medical use in the United States or which have a high potential for abuse including:

heroin	peyote	MDA
*marijuana	mescaline	hashish
LSD	morphine (some types)	

*May have already been moved to Schedule II

Schedule II

Drugs which have a high potential for abuse or may lead to severe psychological or physical dependence. These drugs have accepted medical use with severe limitations and include:

amphetamines, methamphetamines, morphine, cocaine, etc. with such brand names as Demerol, Dilaudid, Seconal, Quaalude, Dexedrine and Ritalin.

Schedule III

Drugs which have a potential for abuse but less than Schedule I or II, and those with low to moderate physical dependence or high psychological dependence. Included here would be PCP (angel dust), paregoric, barbiturates (except phenobarbital), some forms of codeine, some amphetamines, and other stimulants.

Schedule IV

Here are drugs with less potential for abuse (although many disagree since Valium, a much abused drug, is listed here), and drugs which may lead to limited dependence. Included here are some barbiturates, many depressants such as Placydil and Dalmone, and such tranquilizers as Equanil, Librium, Miltown, Serax, Tranxene, and Valium. Some stimulants are also found on this list.

Schedule V

This schedule includes those drugs with low potential for abuse and limited dependence. Many formerly unclassified exempt narcotics have been listed here and amount is probably the prime factor for placing a drug in this schedule.

There are eight factors which the DEA considers in terms of placing a drug within a given schedule. These are:

- "1. Its actual or relative potential for abuse;
2. Scientific evidence on its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the drug or other substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or psychological dependence liability;
8. Whether the substance is an immediate precursor of a substance already controlled." (Drugs of Abuse, p 28)

In addition the act developed nine (9) control mechanisms which are imposed on the manufacturing, obtaining, and selling of substances listed in the five schedules. These are:

1. Registration of handlers
2. Record keeping requirements
3. Quotas on manufacturing
4. Restrictions on distribution
5. Restriction on dispensing
6. Limitations on imports and exports
7. Conditions for storage of drugs
8. Reports on transactions (to the government)
9. Criminal penalties for illicit trafficking

Examples of the maximum criminal penalties are as follows:

	<u>Manufacture or Distribution</u>	<u>Possession</u>
Schedule I	<u>First offense</u> 15 years and \$25,000 <u>Second and more offenses</u> 30 years and \$50,000	<u>First offense</u> 1 year and \$5,000 <u>Second offense</u> 2 years and \$10,000
Schedule II	<u>First offense</u> 15 years and \$25,000	<u>First offense</u> may be given probation. The penalties for possession are the same for all schedules. 
Schedule III	<u>First offense</u> 5 years and \$15,000 <u>Second offense</u> 10 years and \$30,000	
Schedule IV	<u>First offense</u> 3 years and \$10,000 <u>Second offense</u> 6 years and \$20,000	
Schedule V	<u>First offense</u> 1 year and \$5,000 <u>Second offense</u> 2 years and \$10,000	

There are many other components of this law including sections which specifically mention the "continuing criminal enterprise" and "dangerous special drug offenders". However, only time will tell as to whether this law will assist agents in curtailing the illicit drug traffic or whether new laws are needed.

References

1. Cornacchia, H., Bentel, D., and Smith, D. Drugs in the classroom: a conceptual model for school programs. St. Louis: Mosby, 1973. (pp 112-118)
2. Ray, O. Drugs, society and human behavior. St. Louis: Mosby, 1972 (pp 17-34)
3. Unknown Drugs of abuse. Drug Enforcement Administration, Department of Justice, Washington, D.C.: (undated) (pp 16-17, 28-32)
4. Unknown Marijuana: a signal of misunderstanding. First Report of the National Commission on Marijuana and Drug Abuse, Washington, D.C.: U.S. Government Printing Office, March 1972. (p 167)